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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,712	09/15/2003	Paul Liebert	200209428-1	1010

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EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/662,712	LIEBERT ET AL.	
	Examiner	Art Unit	
	Jorge L. Ortiz-Criado	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-24 and 31 is/are allowed.
- 6) ☒ Claim(s) 25, 26, 29 and 30 is/are rejected.
- 7) ☒ Claim(s) 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 25-26 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Honda et al. U.S. Patent Application Publication 2002/0191517.

Regarding claim 25, Honda et al. discloses a mass storage device (48), (see Fig. 6-12; paragraphs [0036]-[[0037])), comprising:

an optical marking mechanism (66) to at least optically write markings on a plurality of tracks of an optically writable label surface (52) of an optical disc (50);

a movement mechanism (76) to move the optical marking mechanism to and from the optically writable label surface of the optical disc;

an optical disc surface-tracking assembly (78) to cause the movement mechanism to move the optical marking mechanism so as to track the optically writable label surface of the optical disc.

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Regarding claim 26, Honda et al. discloses further comprising a rotation mechanism (56) to rotate the optical disc (50), (Fig. 6).

Regarding claim 29, Honda et al. discloses a mass storage device (48), (see Fig. 6-12; paragraphs [0036]-[0037]), comprising:

an optical marking mechanism (6) to at least optically write markings on a plurality of tracks of an optically writable label surface (52) of an optical disc (50);

a movement mechanism to move the optical marking mechanism (76) to and from the optically writable label surface of the optical disc;

means for tracking (78) the optically writable label surface of the optical disc by causing the movement mechanism to move the optical marking mechanism.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Honda et al. U.S. Patent Application Publication 2002/0191517 in view of Marino U.S. Patent No. 5,910,936.

Honda et al discloses all the limitations as outlined above with claim 29. Honda discloses means for tracking (78) the optically writable label surface (52) of the optical disc by causing the movement mechanism to move the optical marking mechanism.

However, Honda et al. does not expressly disclose that the means for tracking is further for approximating a topology of the optically writable surface of the optical disc.

However, this feature is well known in the art and is evidenced by Marino, which discloses a mass storage device (fig. 4) having an optical marking mechanism to at least optically write markings on a plurality of tracks of an optically writable surface of an optical disc (10) and a means for tracking (36, 48, 54, 60) the optically writable surface of the optical disc by causing the movement mechanism to move the optical marking mechanism and further for approximating a topology of the optically writable surface of the optical disc (see col. 3, line 25 to col. 4, line 46; Fig. 3, col. 5, lines 1-29).

It would have been obvious to one of an ordinary skill in the art at the time of the invention to further provide the means for tracking to further approximate the topology of the optical writable surface of the optical disc in order to compensate the tracking movement mechanism from disk warp, minimizing radial and tangential tilt error caused by the warped surface of the disk, as taught by Marino.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,710,908 to Oshima et al, pertinent to an approximating topology of an optical writable surface of an optical disc.

Allowable Subject Matter

Claims 1-24 and 31 are allowed.

Claims 27-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Regarding claim 1, 14 and 31, the prior art made of record does not teach or fairly suggest either alone or in combination approximating correlating a time at which each peak within the claimed proximity signal occurs with a value of the claimed oscillating wave at the time to yield a plurality of time-value pairs and approximating a topology of the surface of the optical disc from the plurality of time-value pairs.

In regard to claim 22, the prior art made of record does not teach or fairly suggest either alone or in combination where the beam-generating mechanism generate a beam output towards a reflective surface being oscillated to cause the beam to result in an oscillating wave and a means for tracking the reflective surface based on the claimed proximity signal and the claimed oscillating wave.

The following is a statement of reasons for the indication of allowable subject matter:

In regard to claims 27 and 28, the prior art made of record does not teach or fairly suggest either alone or in combination the features outlined above in regard to claims 1, 14 and 31.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L. Ortiz-Criado whose telephone number is (571) 272-7624. The examiner can normally be reached on Mon.-Thu.(12:30 pm- 9:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ANDREA WELLINGTON
SUPERVISORY PATENT EXAMINER